

UNITED STATES DISTRICT COURT

for the
Southern District of Ohio

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

A grey 2014 Toyota Camry, 4 Door
VIN: 4T1BFK3EU322598

Case No. **1:24-MJ-00380**

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A.

located in the Southern District of Ohio, there is now concealed (identify the person or describe the property to be seized):

See Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 924(c)	Use of Firearm in Federal Drug/Violent Crime;
21 U.S.C. § 841(a)(1)	Distribution of Controlled Substances.

The application is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

JASON WHARTON

Applicant's signature

TFO Jason Wharton, ATF&E

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by

Facetime video (specify reliable electronic means).

Date: **May 21, 2024**

City and state: Cincinnati, Ohio

Stephanie K. Bowman

Judge's signature

Stephanie K. Bowman, United States Magistrate Judge

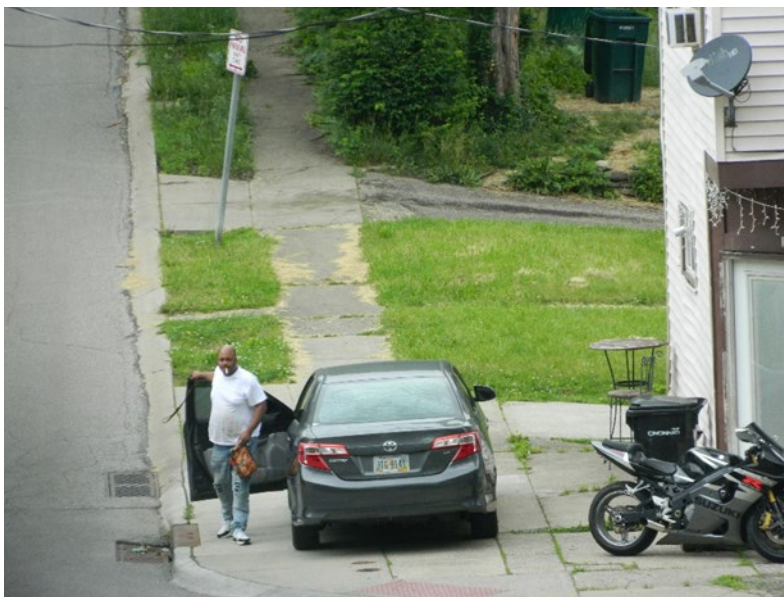
Printed name and title



Attachment A
(Property to be Searched)

The property to be searched is a grey 2014 Toyota Camry, 4 Door, VIN: 4T1BFK3EU322598 (the "SUBJECT VEHICLE").

The SUBJECT VEHICLE is located at the CPD District 3, 2300 Ferguson Road, Cincinnati, Ohio impound lot.



ATTACHMENT B
(Property to be Seized)

The items to be seized are evidence, contraband, fruits, and instrumentalities related to violations of 18 U.S.C. § 924(c) and 21 U.S.C. § 841(a)(1), including:

- a) Any and all controlled substances;
- b) Cash;
- c) Narcotics or money ledgers, customer lists of narcotics distribution, narcotic supplier lists, correspondence, notations, logs, receipts, journals, books, records and other documents (including computer disks) noting the price, quantity, and/or times when narcotics were obtained, transferred, sold, distributed, and/or concealed;
- d) Books, records, receipts, computer storage media, electronic information storage devices, printers, computers, bank statements and records, wire transfer records, money drafts, letters of credit, money order and cashier's check receipts, passbooks, bank checks, accounting of expenditures made and payments received, safe deposit box keys and records, money wrappers, rubber bands, money containers, safes, financial records, and notes showing payments, receipt, concealment, transfer, or movement of assets generated from the sale of false identifications and or narcotics;
- e) Cellular telephones, beepers, personal telephone and address books, listings, letters, cables, telegrams, telephone bills, including cellular telephone and beeper bills, fax messages, fax logs, telephone message records, telephone electronic storage devices, personal notes, photographs, calendars, diaries and other items reflecting names, addresses, telephone numbers, communications, and illegal activities of associates in drug trafficking and money laundering activities;
- f) Financial instruments purchased with large amounts of currency derived from the sale of controlled substances and/or money laundering, including jewelry, vehicles, traveler's checks, bonds, stock certificates, cashier's checks, money orders, certificates of deposit, money counting machines, money wrappers, boxes, bags, briefcases, suitcases or containers used to carry currency or controlled substances;
- g) Drug paraphernalia, scales, measuring devices, weighing devices, cutting agents, glass ware, narcotics packaging materials, and other items used in relation to drug trafficking;
- h) Firearms, firearms magazines and attachments, and ammunition.
- i) Records, documents and deeds reflecting the purchase or lease of real estate, vehicles, or other items obtained with the proceeds of the sales of controlled substances and/or money laundering;

- j) Records, items and documents reflecting travel for the purpose of participating in narcotics trafficking and/or money laundering, including passports, airline tickets, credit card receipts, travel vouchers, hotel and restaurant receipts, canceled checks, maps and written directions to locations;
- k) Photographs and electronic images, such as video recordings and tape recordings which document the association with other co-conspirators;
- l) Indicia of occupancy, residency or ownership of the premises, namely, utility bills, telephone bills, loan payment receipts, rent receipts, trust deeds, lease or rental agreements, and escrow documents;

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**IN THE MATTER OF THE SEARCH OF
A grey 2014 Toyota Camry, 4 Door
VIN: 4T1BFK3EU322598**

Case No. 1:24-MJ-00380

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41
FOR A WARRANT TO SEARCH AND SEIZE**

I, Jason Wharton, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of applications pursuant to Rule 41 of the Federal Rules of Criminal Procedure seeking warrants to search the vehicle identified as a grey 2014 Toyota Camry, 4 Door, VIN: 4T1BFK3EU322598 (the “**SUBJECT VEHICLE**”), further described in Attachment A, for the things described in Attachment B.

2. I am a Task Force Officer (“TFO”) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and Organized Crime Investigative Squad of the Crime Gun Intelligence Center (CGIC) of the Cincinnati Police Department (CPD) and have been employed since 2010. I have been a police officer with CPD for more than 22 years. I have conducted and participated in numerous drug trafficking investigations as well as illegal use of firearms investigations during my career, which have resulted in the seizures of firearms and drugs, seizure of drug proceeds in the form of U.S. currency, arrest of suspects, their prosecution, and conviction. I have participated in numerous interviews of individuals involved in the illegal possession of firearms. I have also participated in numerous interviews of individuals involved in the illegal possession of firearms. I have participated in the investigation of the offenses referred to above and have reviewed ATF reports and reports prepared by other law enforcement agencies.

3. I am also trained in the National Ballistics Information Network (NIBIN) which helps identify firearms used in crimes, as well as Deoxyribonucleic Acid (DNA) collection from firearms and from people. I have taught course material at the Cincinnati Police Academy regarding National Integrated

Ballistics Network (NIBIN) and DNA collection from firearms and how to enter shell casings into the NIBIN system.

4. I have conducted and participated in numerous drug trafficking, illegal possession of firearms, explosives and firearms related violent crime investigations. I have also been involved in the investigation of several National Integrated Ballistics Network (NIBIN) leads related to violent crimes in Cincinnati, Ohio that were committed by both known and unknown person(s).

5. Through training and experience, I have become familiar with firearms trafficking investigations and the analysis of ATF Multiple Sale Reports,¹ ATF Trace Reports,² and Federal Firearms Licensee Acquisition & Disposition Records.³ I am also experienced in analyzing ATF Trace Reports and identifying patterns and purchasing activity of suspected firearms traffickers. This includes the analysis of the number of days between the purchase of a firearm and the later date law enforcement authorities recover it, as well as examining relevant ATF Trace Reports involving a specific purchaser or possessor, and/or the volume or make and model of particular firearms identified as being purchased by suspects.

6. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is only intended to establish sufficient probable cause to justify the issuance of the requested warrant and does not set forth all of my knowledge about this matter.

7. Based on the facts set forth in this affidavit, there is probable cause to believe that **NICHOLAS WARNER** has violated 18 U.S.C. § 924 (c) - Use of Firearm in Federal Drug/Violent Crime

¹ A Federal Firearms Licensee (FFL) must complete (and submit to ATF) ATF Form 3310.4 – Report of Multiple Sale or Other Disposition of Pistols and Revolvers, commonly called an “ATF Multiple Sale Report,” to provide information about a transaction in which an individual buys two or more pistols or revolvers at one time or within five consecutive business days.

² An ATF Trace Report provides information about a firearm’s original purchaser and the circumstances in which the firearm was later recovered. A completed ATF Trace Report includes the identifying information for the firearm, including recovery and location date; the FFL that transferred the firearm; and the information related to the purchase of the firearm, which is obtained from the ATF Form 4473 – Firearms Transaction Record that the FFL provided to the ATF National Tracing Center.

³ An FFL is required to maintain Acquisition and Disposition Records documenting all firearms that the FFL receives into, and distributes from, its inventory.

and 21 U.S.C. § 841(a)(1) - Distribution of Controlled Substances. There is also probable cause to believe that a search of the **SUBJECT VEHICLE** (described in Attachment A) will yield the evidence, fruits, contraband, and instrumentalities of violations of these crimes described in Attachments B.

PROBABLE CAUSE

A. Introduction

8. The United States is conducting a criminal investigation of **NICHOLAS WARNER** for suspected violations of 18 U.S.C. § 924 (c) - Use of Firearm in Federal Drug/Violent Crime and 21 U.S.C. § 841(a)(1) - Distribution of Controlled Substances.

9. From April 13th , 2024, through April 20th , 2024, WARNER sold ATF Special Agents and an ATF Confidential Informant 426.64 grams of marijuana for two thousand three hundred dollars (\$2300) on April 16th, and 6.92 grams of marijuana, American Tactical semi-automatic rifle, Model Omni, Multi-caliber, serial number #NS273962, and a Glock semi-automatic handgun, Model #43x, 9mm caliber, serial number #BVMN295 for two thousand four hundred twenty dollars (\$2420) on April 17th .

10. I am submitting this affidavit in support of two search warrants, one for authorization to search **WARNER's** residence and another to search **WARNER's** person.

B. April 16th , 2024, an ATF Undercover Special Agent, and ATF Confidential Informant purchased one pound of marijuana from Nicholas WARNER.

11. On April 16, 2024, ATF Special Agent (SA) #5342, acting in an undercover capacity, and ATF CI-31618 conducted a controlled purchase of one (1) pound of marijuana from Nicholas WARNER for two thousand three hundred dollars (\$2300). The transaction occurred at 3431 Warsaw Avenue, Cincinnati, Ohio 45211, the Marathon Gas station, located in the Southern District of Ohio.

12. Prior to this operation, SA-5342 was provided with ATF-issued funds for the purchase of evidence from WARNER. SA-5342 and CI-31618 utilized an ATF undercover vehicle during the purchase of evidence from WARNER.

13. On April 16th, 2024, at approximately 11:44 AM, audio/video recording equipment was activated for the purpose of documenting the purchase of evidence from WARNER.

14. At approximately 11:35 AM, Surveillance set up around the area of the Marathon Gas Station located at 3431 Warsaw Avenue, Cincinnati, Ohio 45205. At approximately 11:44 AM, SA-5342 activated the recording device. At approximately 11:45 AM, the Undercover Vehicle (UCV) was enroute to meet-up location. At approximately 11:46 AM, the UCV advised surveillance units that they were 5 minutes away from target location. At approximately 11:55 AM, WARNER's Chevrolet Tahoe was spotted pulling into the Marathon parking lot. The UCV pulled into lot and backed into a spot by a dumpster. At approximately 11:56 AM, the CI exited the UCV and walked toward the gas station. The CI then entered WARNER's vehicle. Various conversations about drug trafficking occurred. At approximately 11:58 AM, the CI exited WARNER's vehicle and walked back to UCV and advised the surveillance team that it was a good deal.

15. At approximately 11:59 AM, the UCV with ATF SA-5342 and ATF CI-31618 drove away from the parking lot. The location and audio/video recording equipment were deactivated, and a copy of the recordings were later entered into ATF Property. ATF SA-5342 and ATF CI-31618 returned to a predetermined location. The items purchased from WARNER were inventoried, entered into Cincinnati Police Department (CPD) Property, and are further described as follows:

- a. suspected marijuana was weighed by ATF/CPD personnel and was approximately 426.64 grams.



C. On April 17th, 2024, an ATF Undercover Special Agent and ATF Confidential Informant purchased two firearms and suspected marijuana from Nicholas WARNER.

16. On April 17th, 2024, ATF SA-5342, acting in an undercover capacity, and ATF CI-31618 purchased two (2) firearms and suspected marijuana from WARNER for two thousand four hundred twenty dollars (\$2,420.00) at 2401 Everglade Place, Cincinnati, Ohio, in the Southern District of Ohio.

17. At approximately 12:06 pm, ATF CI made a Facetime call to WARNER. The CI stated that 'I wanna do the ARP and the Glock' referring to purchasing a Glock firearm and ARP firearm from WARNER. The CI stated to WARNER 'I gonna give you 15 for big boy...and the 9 on the other one' referring to \$2400 for the two firearms. WARNER replied "it would have to be '24" referring to two thousand four hundred dollars (\$2400.00). WARNER told the CI that he would meet in approximately 20 minutes near the BP gas station on Queen City Avenue. (This Facetime call was captured on CI Video). At approximately 12:16 PM, WARNER was observed coming out of 1500 Beech Avenue. WARNER contacted the CI to change target location. At approximately 12:22 PM, the audio/video recording

equipment was activated to document the purchase of narcotics from WARNER. At approximately 12:26 PM, the UCV was on scene at target location. At approximately 12:31 PM, the CI received call from WARNER who gave secondary location of Everglade Place. At approximately 12:35 pm, the CI exited the UCV and entered the front passenger seat of WARNER's Chevy Tahoe. WARNER greeted the CI and then handed him a camouflage-colored canvass bag. The CI unzipped the bag and observed two firearms inside - an American Tactical semi-automatic rifle, Model Omni, Multicaliber, serial number #NS273962, a Glock semi-automatic handgun, Model #43x, 9mm caliber, serial number#BVMN295. WARNER then showed the CI a photograph on his phone of a Taurus firearm, he wanted between \$900 - \$1000 for it. WARNER told the CI he was selling firearms on the East Coast. At approximately 12:39 PM, CI left WARNER's vehicle. At approximately 12:40 PM, the CI returned to the UCV. At approximately 12:41 PM, WARNER was remaining at Everglade Place.

18. At approximately 12:42 PM, the UCV departed from 2401 Everglade Place and returned to a predetermined staging location. The audio/video recording devices were deactivated, and a copy of the recordings were later entered into ATF Property. The items purchased from WARNER were entered in CPD Property, which are further described as follows:

- a. Approximately 6.92 grams of marijuana, American Tactical semi-automatic rifle, Model Omni, Multi-caliber, serial number #NS273962, and a Glock semiautomatic handgun, Model #43x, 9mm caliber, serial number #BVMN295.



D. 05/08/24 – Surveillance Target: Nick Warner Location: 1500 Beech Avenue, Cincinnati, Ohio, 45205

19. At approximately 9:24 AM, surveillance was set up around the 1500 Beech Avenue address. WARNER's vehicle was parked on the sidewalk on the Latham Avenue side of the residence.



20. At Approximately 9:24 AM, a Black Cadillac door arrives and parked in the driveway between 1500 Beech Avenue and 1502 Beech Avenue.





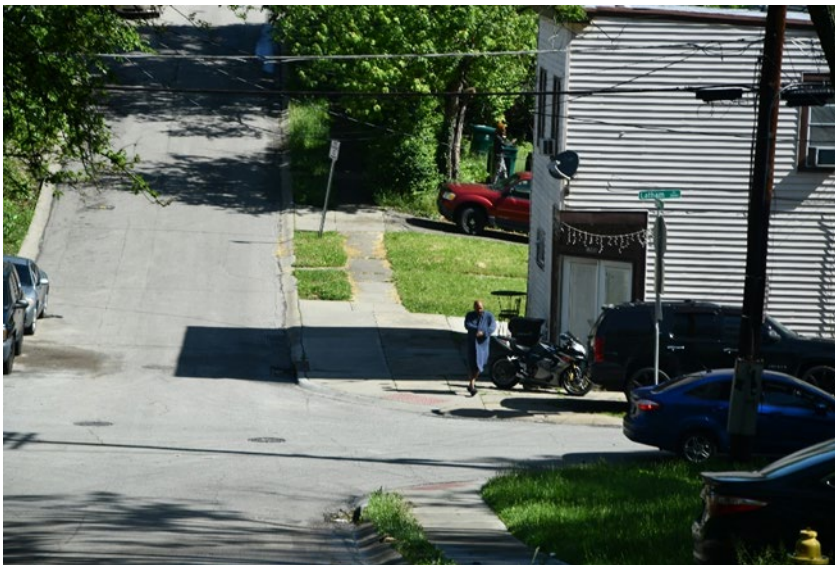
21. At approximately 10:21 AM, unknown female wearing a pink shirt and pink pants arrived at the 1500 Beech Avenue address and enters the residence thru the side door located on Latham Avenue.





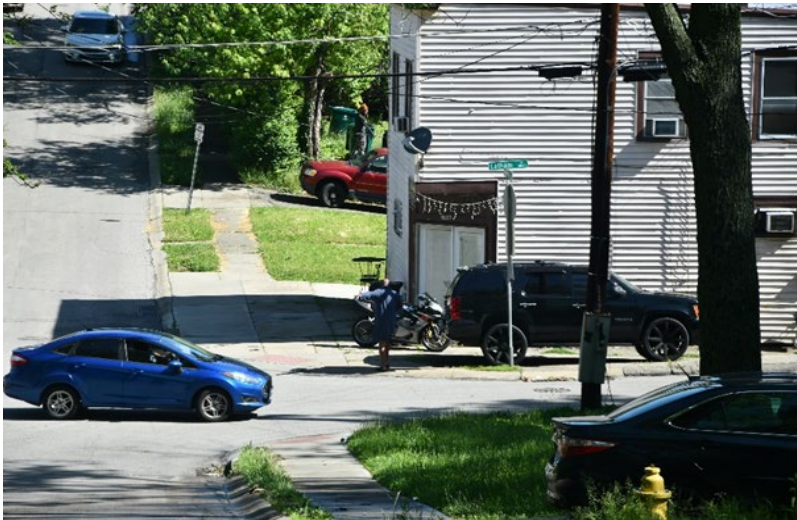


22. At approximately 10:36 AM, **WARNER** appeared in front of the 1500 Beech Avenue address, wearing a blue robe. **WARNER** was concealing an unknown object with his right hand inside his robe. **WARNER** walks over to a blue Ford 4 door vehicle that had just arrived at the corner of Latham Avenue and Beech Avenue and removes his right hand from inside his robe. In his right hand was a plastic baggie. When Warner walked away from the blue Ford the plastic baggie was no longer in his hand.





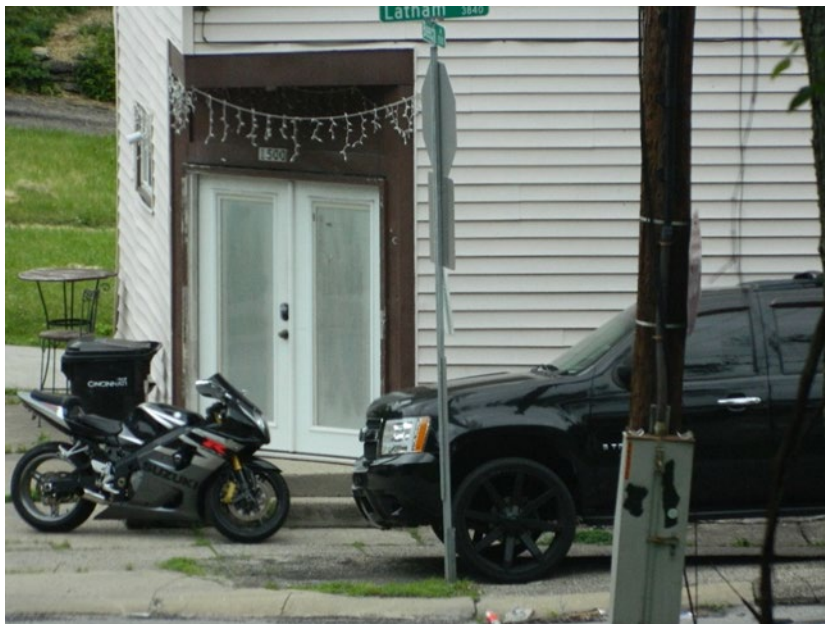
23. After **WARNER** contacted the driver of the blue Ford, the blue Ford leaves the area and **WARNER** entered the 1500 Beech Avenue address thru the front double doors.





E. 05/09/24 – Surveillance Target: Nick Warner aka “Nick Cannon” Location: 1500 Beech Avenue, Cincinnati, Ohio, 45205

24. At approximately 11:36 AM, surveillance units were set up around the 1500 Beech Avenue address. **WARNER’s** vehicle a black Chevy Tahoe was parked on the sidewalk on the Latham Avenue side of the residence.





25. At Approximately 11:57AM, a grey Toyota Corolla bearing Ohio passenger plate of JTG9141, arrives and parked on the sidewalk located in front of 1500 Beech Avenue. The driver identified as **NICHOLAS WARNER** was observed exiting the vehicle thru the driver side door, with a brown bag in hand.





26. At approximately 11:57 AM, **WARNER** with a brown bag in hand, was observed walking around the rear of the vehicle towards the front double doors of the residence. **WARNER** was then observed using the keypad punching in a code to unlock and open the door. **WARNER** then entered into the residence.





27. At approximately 11:57 AM, **WARNER** returned back to the Toyota Corolla, opened the passenger side front door, and began to lean into the vehicle. Then **WARNER** walked back into the residence.





28. At approximately 12:02 PM, **WARNER** exited the residence and returned back to the Toyota Corolla, opened the passenger side front door, and began to lean into the vehicle. WARNER then entered the Toyota thru the driver side door and left the area.









29. At approximately 12:10 PM, surveillance units relocated **NICHOLAS WARNER** at the Marathon Gas Station located at 3431 Warsaw Avenue, Cincinnati, Ohio, 45205.



30. At approximately 12:19 PM, **WARNER** exits the Marathon Gas Station with an unknown male black subject and walks to the Toyota. **WARNER** then opens the driver side door.





31. At approximately 12:20 PM, an unknown female black approached **NICHOLAS WARNER** as he is leaning inside the Toyota, in the parking lot of the Marathon Gas Station. The unknown female black subject and **WARNER** conduct an exchange then the unknown female black subject quickly leaves the gas station parking lot.





32. The affiant, through training and experience, and information obtained from other agents and witnesses shows conduct that **WARNER** is Trafficking marijuana from his residence located at 1500 Beech Avenue, Cincinnati, OH 45205. The behavior that **WARNER** has displayed has remained consistent throughout the investigation. From the undercover buys that took place on April 16th, and April 17th. To the affiant conducting surveillance on **WARNER** on May 8th, and May 9th. **WARNER** has continually

conducted illegal transactions of marijuana and at least two (2) firearms. **WARNER** has done these transactions around the same time of the day between the hours of 10:00 AM through 12:50 PM.

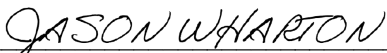
33. On May 16, 2024, at approximately 7:10 AM, Special Agents and Task Force Officers with the ATF, HSI, Cincinnati Police Department SWAT team and Police Officers with Cincinnati Police Department Crime Gun Intelligence Crime Center served a search warrant on the residence located at 1500 Beech Avenue, Cincinnati, Ohio, 45205 located in the Southern District of Ohio. Upon search of the residence, officers/ agents found a set of Toyota car keys and key fob. When officers/agents activated the alert on the key fob, a grey 2014 Toyota Camry, a 4 door sedan, alerted. Cincinnati Police Department K9 officer Jason Ader and his partner Sicaria, a police K9 that is trained to alert at the presence of narcotics, as well as people, while sniffing the air near, around, or in containers, including vehicles, was summoned to 1500 Beech Avenue to assist with the investigation. (See certificate of training, Attachment C.)

34. Once PO Ader arrived, he directed his dog to the above listed vehicle where the dog was commanded to conduct an open-air sniff for the scent of drugs from within the auto. Sicaria was led around the auto by PO Ader several times during which Sicaria gave a clear and aggressive indication for the scent of drugs on each occasion at the underneath front of the vehicle, and the front driver side door. Officer Jason Ader is certified through the State of Ohio as a canine handler. The vehicle was taken to Cincinnati Police Department District 3, located at 2300 Ferguson Road, Cincinnati, Ohio, for storage in anticipation of a search warrant.

CONCLUSION

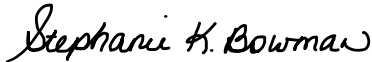
35. There is probable cause to believe that NICHOLAS WARNER has violated 18 U.S.C. § 924(c) - Use of Firearm in Federal Drug/Violent Crime and 21 U.S.C. § 841(a)(1) - Distribution of Controlled Substances. There is also probable cause to believe that a search of the **SUBJECT VEHICLE** (described in Attachment A) will yield the evidence, fruits, contraband, and instrumentalities of violations of these crimes described in Attachments B

Respectfully Submitted,



Jason Wharton
Task Force Officer
Bureau of Alcohol, Tobacco, Firearms &
Explosives

Subscribed and sworn to before me by reliable electronic means, specifically, FaceTime video conference, pursuant to Fed. R. Crim. P. 4.1, on May 21, 2024.



HON. STEPHANIE K. BOWMAN
UNITED STATES MAGISTRATE JUDGE



Attachment A
(Property to be Searched)

The property to be searched is a grey 2014 Toyota Camry, 4 Door, VIN: 4T1BFK3EU322598 (the "SUBJECT VEHICLE").

The SUBJECT VEHICLE is located at the CPD District 3, 2300 Ferguson Road, Cincinnati, Ohio impound lot.



ATTACHMENT B
(Property to be Seized)

The items to be seized are evidence, contraband, fruits, and instrumentalities related to violations of 18 U.S.C. § 924(c) and 21 U.S.C. § 841(a)(1), including:

- a) Any and all controlled substances;
- b) Cash;
- c) Narcotics or money ledgers, customer lists of narcotics distribution, narcotic supplier lists, correspondence, notations, logs, receipts, journals, books, records and other documents (including computer disks) noting the price, quantity, and/or times when narcotics were obtained, transferred, sold, distributed, and/or concealed;
- d) Books, records, receipts, computer storage media, electronic information storage devices, printers, computers, bank statements and records, wire transfer records, money drafts, letters of credit, money order and cashier's check receipts, passbooks, bank checks, accounting of expenditures made and payments received, safe deposit box keys and records, money wrappers, rubber bands, money containers, safes, financial records, and notes showing payments, receipt, concealment, transfer, or movement of assets generated from the sale of false identifications and or narcotics;
- e) Cellular telephones, beepers, personal telephone and address books, listings, letters, cables, telegrams, telephone bills, including cellular telephone and beeper bills, fax messages, fax logs, telephone message records, telephone electronic storage devices, personal notes, photographs, calendars, diaries and other items reflecting names, addresses, telephone numbers, communications, and illegal activities of associates in drug trafficking and money laundering activities;
- f) Financial instruments purchased with large amounts of currency derived from the sale of controlled substances and/or money laundering, including jewelry, vehicles, traveler's checks, bonds, stock certificates, cashier's checks, money orders, certificates of deposit, money counting machines, money wrappers, boxes, bags, briefcases, suitcases or containers used to carry currency or controlled substances;
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- h) Firearms, firearms magazines and attachments, and ammunition.
- i) Records, documents and deeds reflecting the purchase or lease of real estate, vehicles, or other items obtained with the proceeds of the sales of controlled substances and/or money laundering;

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- l) Indicia of occupancy, residency or ownership of the premises, namely, utility bills, telephone bills, loan payment receipts, rent receipts, trust deeds, lease or rental agreements, and escrow documents;



OHIO PEACE OFFICER TRAINING COMMISSION & THE OFFICE OF THE ATTORNEY GENERAL

This is to certify that

Jason Wayne Ader & Sicaria

have completed the

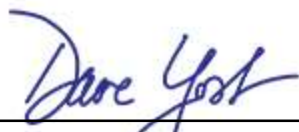
Special Purpose Canine Unit Evaluation

for the following specialities:

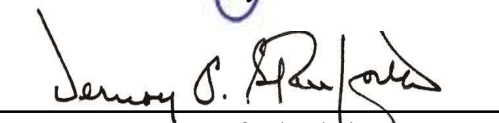
Tracking, Article Search, Marijuana, Cocaine, Heroin, Methamphetamines and their derivatives

Awarded On

October 18, 2023



Dave Yost
Attorney General



Vernon P. Stanforth, Chairperson
Ohio Peace Officer Training Commission





Thomas Quinlan, Executive Director
Ohio Peace Officer Training Commission

Certificate #: 116632
RENEWAL DUE DATE: 10/21/24